

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10218 of 2004

Between:

Smt.Mahamaodunisa Begum W/o. Raheem, House
hold, 7-4-8, Machilibalan, Hanamkonda, Warangal.

..... PETITIONER

AND

- 1 Commissioner, Warangal Municipal Corporation, Warangal.
- 2 The Vice Chairman, Kakatiya Urban Development Authority,
Warangal.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the proposed action of the respondents in trying to take over the land of the petitioner to an extent of 8.63 Sq. Mtrs. from out of the premises bearing No.6-2-222, situated at Chowrastha, Hanmakonda, Warangal, as illegal, arbitrary, violative of Fundamental Rights guaranteed by the constitution of India besides against to the Judgments to this Hon'ble Court and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioner without following the due process of law.

For the Petitioner: MR.C.A.RSESHAGIRI RAO, Advocate

For the Respondent: MR.K.VENUGOPAL REDDY, SC for respondents

The Court at the admission stage made the following :

ORDER:

By this writ petition the petitioner seeks to challenge the proposed action of the respondents in trying to take over 8.63 square metres of her land in the premises bearing No.6-2-222, situated at Chowrastha, Hanmakonda, Warangal, as illegal and violative of judgments of this Court.

The petitioner alleges that she is the owner of the property in question. The officials of the respondent corporation approached her on 19-6-2004 and without following due process of law, orally directed her to handover an area of 8.63 square metres of her said land for the purpose of road widening. The petitioner complained that the action of the respondents is contrary to the Division Bench Judgment of this Court rendered by their Lordships Honourable Sri Justice N.Y. Hanumanthappa and Honourable Sri Justice B.V. Ranga Raju in W.P. No.21198 of 1997 and Batch dated 3-2-1998. Assailing the impugned action of the respondents, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The learned Standing Counsel for the respondents submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land or before demolishing any structures for the purpose of road widening.

The Division Bench dealing with large number of cases where for the purpose of road widening, the Revenue, Panchayat Raj and Municipal authorities sought to demolish the houses or structures abutting the road, issued certain guidelines which are as under:

- 1) Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.
- 2) If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.
- 3) In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.
- 4) If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.
- 5) In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

- 6) If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Sri Venugopal Reddy, learned Standing Counsel appearing for the respondents, does not dispute the legal position.

Accordingly, the writ petition is disposed of directing the respondents to follow the guidelines issued in the above mentioned judgment. No costs.

N.V. RAMANA, J

Date: 22-06-2004

SVV

To

1. Commissioner, Warangal Municipal Corporation, Warangal.
2. The Vice Chairman, Kakatiya Urban Development Authority, Warangal.
3. Two CD copies